

## Limits on Inquiry *Post 8/17/66*

The contemptuous and disorderly conduct of some of the witnesses summoned before a House Un-American Activities Subcommittee yesterday was thoroughly reprehensible. So was the conduct of the Subcommittee itself in distorting the investigating power of Congress and in disregarding even its own rules of procedure. As recently as last June, in its *Gojack* decision, a unanimous Supreme Court had occasion to remind the Congress that "this Court has emphasized that there is no congressional power to investigate merely for the sake of exposure or punishment, particularly in the First Amendment area." HUAC has displayed only contempt for that repeated admonition.

Although it was evident from the past performances of HUAC that its inquiry would trench on First Amendment rights of witnesses, we think Judge Howard Corcoran was ill-advised to issue a temporary restraining order against the hearing before its inception. No doubt he felt that the rights of these witnesses could be safeguarded in no other way. A panel of the three-judge court established at his insistence showed good judgment,

## ington Post

WEDNESDAY, AUGUST 17, 1966 PAGE A24

however, in averting so precipitate and naked a confrontation between judicial and legislative authority.

But the actions of investigating committees of Congress, like any other legislative actions, are subject to judicial review. And the constitutional rights of American citizens must be respected by congressional committees as well as by administrative officers and judicial authorities. It seems entirely appropriate, therefore, that the three-judge constitutional court panel should meet today to consider, detachedly and objectively, whether the HUAC hearing is a warranted one to which witnesses must make respectful response.

In the end, of course, obedience to the Committee's commands can be enforced only through judicial process. There is much to be said, insofar as it may be feasible, for having the Committee's authority determined before, rather than after, recalcitrant witnesses are criminally indicted and prosecuted. As the Supreme Court observed in *Gojack*, "The jurisdiction of the courts cannot be invoked to impose criminal sanctions in aid of a roving commission. The subject of the inquiry of the specific body before which the alleged contempt occurred must be clear and certain."